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8
9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2021-082101

14 **Justin G. English II, M.D.**
15 **44108 Greenview Dr.**
El Macero, CA 95618-1077

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. C 30497,**

Respondent.

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21 **PARTIES**

22 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
23 the Interim Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).

25 2. On or about September 5, 1968, the Medical Board issued Physician's and Surgeon's
26 Certificate Number C 30497 to Justin G. English II, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on September 30, 2023, unless renewed.

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4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his license revoked or suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring or such other action taken in relation to discipline as the Board deems proper.

“The board shall take action against any licensee who is charged with unprofessional conduct¹. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(b) Gross negligence.

“ . . . ”

“(f) Any action or conduct which would have warranted the denial of a certificate.

“ . . . ”

6. Section 726 of the Code states:

“(a) The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this or under any initiative act referred to in this division.

¹ Unprofessional conduct under California Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

1 “...”

2 7. Section 729 of the Code states:

3 “(a) Any physician and surgeon . . who engages in an act of sexual contact with a patient or
4 client, or with a former patient or client. . .is guilty of sexual exploitation by a physician and
5 surgeon. . .”

6 8. Section 2228.1 of the Code provides that all licensees must provide a separate
7 disclosure to all patients which includes probation status, the length of probation, the probation
8 end date, all practice restrictions placed on the licensee by the Board, the Board’s telephone
9 number, and an explanation of how the patient can find further information if the licensee is
10 placed on probation after final adjudication by the Board for the commission of any act of sexual
11 abuse, misconduct or relations with a patient pursuant to section 726 and 729 of the Code.

12 **COST RECOVERY**

13 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licensee found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
17 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
18 included in a stipulated settlement.

19 **FACTUAL ALLEGATIONS**

20 10. On or about September 30, 2021, the Board received a complaint from the Davis
21 Police Department relaying that a patient had alleged an inappropriate touching during an exam
22 with Respondent.

23 11. Patient A², a 58-year old female, alleged that on or about September 5, 2021, she had
24 seen Respondent at an Urgent Care facility in Davis, CA, for a suspected urinary tract infection.
25 Patient A alleged that during the exam, Respondent unbuttoned her pants while she was laying on
26 the exam table and slipped his ungloved hand on her pubic area underneath her underwear.

27 _____
28 ² Patient names are omitted to protect privacy. They are known to Respondent and will be
provided in discovery.

1 Patient A alleged that Respondent had not asked for her consent prior to unbuttoning her pants
2 and reaching in with his hand, nor had he explained what he was going to do before examining
3 her. There was no one else in the exam room with Patient A and Respondent during the
4 examination.

5 12. Patient A filed a police report with the Davis Police Department.

6 13. During the course of the Board's investigation into Patient A's allegation, the
7 investigator discovered a prior allegation against Respondent for an alleged inappropriate
8 touching occurring in 2018.

9 14. On or about September 6, 2018, Patient B, a 22-year old female, was seen by
10 Respondent at Davis Urgent Care for a reported sore and swollen throat. Patient B alleged that
11 during the examination Respondent:

12 A. Commented upon and touched piercings in Patient B's ear;

13 B. Commented upon and touched a piercing in Patient B's nose;

14 C. Pulled down Patient B's shirt to expose Patient B's dermal piercings on her
15 sternum/chest, touched the piercings, and exposed the top of her breasts, while commenting upon
16 Patient B's dermal piercing(s).

17 15. Patient B filed a police report with the Davis Police Department.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct: Sexual Misconduct/Sexual Exploitation, Gross Negligence,**
20 **Repeated Negligent Acts)**

21 16. Respondent Justin G. English, M.D. is subject to disciplinary action under section
22 2234 (unprofessional conduct/gross negligence/repeated negligent acts) and/or section 726
23 (sexual misconduct) and/or section 729 (sexual exploitation) of the Code in that he engaged in
24 Sexual Misconduct and/or Sexual Exploitation of Patient B as described in paragraph 14 above,
25 including, but not limited to, the following:

26 A. Respondent manipulated the piercings in Patient B's ear, nose, and chest (dermal);

27 B. Respondent made inappropriate comments regarding Patient B's piercings;

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1 C. Respondent pulled down Patient B's shirt partially exposing her breasts and
2 manipulated her dermal piercing(s).

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct: Sexual Misconduct/Sexual Exploitation, Repeated Negligent**
5 **Acts)**

6 17. Respondent Justin G. English, M.D. is subject to disciplinary action under section
7 2234 (unprofessional conduct//repeated negligent acts) and/or section 726 (sexual misconduct)
8 and/or section 729 (sexual exploitation) of the Code in that he engaged in Sexual Misconduct
9 and/or Sexual Exploitation of Patient A as described in paragraph 11 above, including, but not
10 limited to, the following:

11 A. Respondent failed to explain his intended examination of Patient A's pubic region
12 before unbuttoning her pants and examining her;

13 B. Respondent touched her pubic area without consent.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct)**

16 18. Respondent is further subject to disciplinary action under sections 2227 and 2234, as
17 defined by section 2234, of the Code, in that he has engaged in conduct which breaches the rules
18 or ethical code of the medical profession, or conduct which is unbecoming a member in good
19 standing of the medical profession, and which demonstrates an unfitness to practice medicine, as
20 more particularly alleged in paragraphs 11 through 17, above, which are hereby incorporated by
21 reference and realleged as if fully set forth herein.

22 19. Respondent failed to provide sufficient informed consent to Patient A prior to
23 conducting a physical exam of her pubic area:

24 A. Respondent failed to communicate to and inform Patient A he was going to examine
25 her pubic area;

26 B. Respondent failed to communicate to and inform Patient A that he was going to
27 unbutton her pants.

28 ///

1 C. Respondent failed to obtain consent from Patient A to unbutton her pants and to
2 examine her pubic area.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Medical Board of California issue a decision:

6 1. Revoking or suspending Physician's and Surgeon's Certificate Number C 30497,
7 issued to Justin G. English II, M.D.;

8 2. Revoking, suspending or denying approval of Justin G. English II, M.D.'s authority to
9 supervise physician assistants and advanced practice nurses;

10 3. Ordering Justin G. English II, M.D., to pay the Board the costs of the investigation and
11 enforcement of this case, and if placed on probation, the costs of probation monitoring;

12 4. Ordering Respondent Justin G. English II, M.D., if placed on probation, to provide
13 patient notification in accordance with Business and Professions Code section 2228.1; and

14 5. Taking such other and further action as deemed necessary and proper.

15
16 DATED: JUN 23 2023

Jenna Jona For

17 REJI VARGHESE
18 Interim Executive Director
19 Medical Board of California
20 Department of Consumer Affairs
21 State of California
22 Complainant

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